



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

February 11, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

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Third District

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Fifth District

BOARD MOTION RESPONSE ON HR 6893 - FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008; BOARD RESPONSE ON HR 6893-2008

On October 21, 2008, your Board directed the Chief Executive Officer (CEO) and Director of the Department of Children and Family Services (DCFS) to report back in 30 days, and quarterly thereafter, on the feasibility of: (1) Seeking State authority to implement the provisions of HR 6893 for children and youth under Los Angeles County supervision; and (2) Implementing the provisions of HR 6893 outside of Los Angeles County's Title IV-E Child Welfare Capped Allocation Demonstration Project. This is the first report back to your Board.

INTRODUCTION

The landmark federal bill, Fostering Connections to Success and Increasing Adoptions Act of 2008 (HR 6893, now known as Public Law 110-351), addresses the needs of thousands of children in foster care and kinship care by promoting permanent families for them through relative guardianship and adoption. The bill re-authorizes the adoption incentives program and gives states the option of using federal Title IV-E funds to provide foster care, legal guardianship, and adoption assistance to children up to 21 years of age.

Because of this bill, more adopted children with special needs will be eligible for federal adoption assistance. Federal eligibility for Adoptions Assistance Payments will no longer be linked to 1996 Aid to Families with Dependent Children eligibility

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requirements, including financial need standards which had not been adjusted for inflation, since the enactment of the Federal welfare reform law in 1996. The bill also includes provisions to expedite connections between foster children and their families, promote family connections by keeping siblings together in foster care, maintain enrollment in school of family origin when placed, and require States to develop and coordinate health care services for any child in foster care. HR 6893 requires a child welfare agency to assist youth in formulating a transitional case plan 90 days prior to a youth's exit from the system.

CURRENT STATUS

HR 6893 was signed into law by President Bush on October 7, 2008. While some provisions in this bill are optional, some provisions are mandatory. To implement any of the bill's provisions, states must develop and submit State plan amendments to the U.S. Department of Health and Human Services (HHS) for its review and approval. Specifically, on November 22, 2008, the State certified to the HHS (Attachment I) that State legislation is necessary to comply with all requirements under Title IV-B and Title IV-E of the Social Security Act as amended, except for notification of prospective adoptive parents of the Federal adoption tax credit. Further, the State requested a delay of the effective date for implementing the provisions of HR 6893 to January 1, 2010.

PROGRAM AND WAIVER CONSIDERATIONS

If the State chooses to adopt the expanded provisions of HR 6893, there may be cost increases on the Title IV-E Waiver Capped Allocation Demonstration Project. DCFS is pursuing the option of having these cost increases handled outside the Capped Allocation. Alameda County has indicated a preference of handling these costs outside of the Capped Allocation as well. We are working with the State to determine the feasibility of this approach.

Regardless, we believe implementation of HR 6893 will require that the County's existing Waiver be renegotiated in order for the County to receive any of the increased Title IV-E funding that, otherwise, would be available to states under HR 6893. For example, the bill provides the State with a new option to access Title IV-E funds for Kinship Guardianship Assistance Program (Kin-GAP) payments for foster children, which would cut in half the non-Federal share of Kin-GAP costs for federally eligible children. Currently, roughly 80 percent of Kin-GAP is funded by the State General Funds and 20 percent by counties without any FFP. The County will request that the State pursue a revision in the existing waiver to allow the State and County to receive

IV-E matching funds for Kin-GAP costs outside of the current Capped Allocation. We also will support retaining the current State-County 80/20 cost-sharing ratio for Kin-GAP costs rather than using the State-County 40/60 cost-sharing for IV-E foster care maintenance payments. Further, it is likely caseloads will increase given the need to monitor these additional populations for compliance with funding eligibility and to develop case plans for youth during the 90-day period immediately before youth exit from care at 18, 19, 20, or 21 years old.

This bill also allows, at the State's option, payments to continue to age 21 if adoption or kinship guardianship agreements were negotiated after a child reaches the age of 16. Caregivers may elect to defer legal guardianship or adoption until age 16 in order to receive extended funding. Because of this possibility, the Department will need to work collaboratively with kinship caregivers to develop other incentives to ensure permanency goals are met if the State opts to implement this provision.

In addition, non-federally eligible foster youth will not automatically be covered under these new provisions that allow extending the age for federal foster care funding. Providing extended funding and support for federally ineligible youth will need to be addressed as well if the State opts to implement this provision.

NEXT STEPS

FEDERAL

HHS must develop federal regulations, and review and approve State plans based on HR 6893 legislation.

STATE

Assembly Member Jim Beall (Santa Clara) and Assembly Speaker Karen Bass have introduced Assembly Bill 12 (Attachment II), the California Fostering Connections to Success Act which seeks to ensure that California opts in to both the kinship guardianship and age extension provisions of HR 6893.

The State has begun the process of developing plans to introduce enabling legislation early in the 2009 legislative session and to assess those elements of HR 6893 that can be implemented by regulatory changes. As noted above, the State submitted the preliminary planning document to HHS by the November 24, 2008 deadline.

Enabling legislation may be in the form of a single omnibus bill or a package of smaller bills. There are several key programs that will be incorporated within the prospective bill(s):

- Kinship care provisions to allow the State to expand this program and draw down federal Title IV-E funds can be implemented upon federal approval of the State plan and passage of enabling legislation;
- The de-linking of federal eligibility in adoption assistance will be gradually phased in beginning in 2010 for those children 16 years and older and culminates with all children receiving Adoption Assistance Program benefits being covered by 2018; and,
- If the State chooses to extend federal Title IV-E foster care funding after age 18, this option will not take effect until October 2010 at the earliest.

The State will hold workgroups and hearings to gather input from County welfare agencies and community partners regarding strategies to develop legislative proposals and plan for implementation of HR 6893.

COUNTY

We have attached a copy of the Questions and Answers document (Attachment III) produced by the American Public Human Services Association, which provides a comprehensive summary of the provisions of HR 6893 and also provides clarifying information about the implementation of the provisions. Also attached is a Preliminary Analysis of HR 6893 (Attachment IV) prepared by the California Department of Social Services.

Please let me know if you have any questions or your staff may contact Victoria Evers at (213) 974-1415 or Brian Mahan at (213) 974-1318.

WTF:SRH:MS
PSP:SK:MHM:BM:cvb

Attachments

c: Executive Officer, Board of Supervisors
County Counsel



JOHN A. WAGNER
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



ARNOLD SCHWARZENEGGER
GOVERNOR

November 20, 2008

Sally Flanzer
Region IX Program Manager
Administration for Children and Families
90 7th Street, Ninth Floor
San Francisco, California 94103

Dear Ms. Flanzer:

This letter is in response to your Program Instruction (PI) 08-05 dated October 23, 2008, sent to the California Department of Social Services (CDSS) regarding the request for state legislation, in order to implement provisions of new federal law outlined in PI-08-05 and to amend California's Title IV-E State Plan.

The CDSS submits the enclosed certification (Attachment A) indicating legislation is needed in California in order to comply with many of the new statutory provisions in Title IV-E of the Social Security Act. California will be introducing legislation this legislative session, to comply with the new federal laws outlined in PI-08-05. Once state legislation is passed and signed by the Governor, it will become effective on January 1, 2010, which is California's delayed effective date to comply with the new federal laws and instructions issued in PI-08-05.

If you have any questions or concerns regarding this letter, please feel free to contact me at (916) 657-2614 or you may contact Barbara Eaton, Chief of the Foster Care Audits and Rates Branch at (916) 324-4873.

Sincerely,

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

Enclosure

c: Pat Pianko, DHHS

ATTACHMENT A - CERTIFICATION OF REQUIRED STATE LEGISLATION

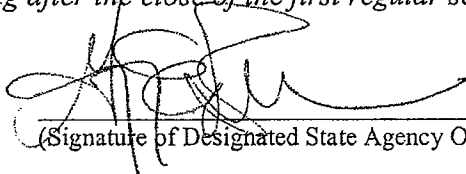
TITLE IV-E STATE PLAN - STATE OF CALIFORNIA

I hereby certify that State legislation is necessary to comply with the plan requirements under Title IV-B and Title IV-E of the Social Security Act as amended by Public Law 110-351, the Fostering Connections to Success and Increasing Adoptions Act of 2008, which **have** been checked off below. I hereby further certify that State legislation is not necessary to comply with those plan requirements which have **not** been checked off below:

- ☒ Development of health care oversight and coordination plans for children in foster care in consultation with the Medicaid agency and health care experts [section 422(b)(15)]
- ☒ Due diligence to identify and notify adult relatives within 30 days of a child's placement in foster care [section 471(a)(29)]
- ☒ Assurances that school-age Title IV-E recipients are full-time students [section 471(a)(30)]
- ☒ Reasonable efforts to place siblings together or provide ongoing interaction [section 471(a)(31)]
- ☒ Good faith negotiation with Indian Tribes requesting the development of a Title IV-E agreement [section 471(a)(32)]
- ☐ Notification of prospective adoptive parents of Federal adoption tax credit [section 471(a)(33)]
- ☒ Case plan inclusion of a plan for educational stability of the child while in foster care [section 475(1)(G)]
- ☒ Case plan inclusion of a transition plan for youth emancipating from foster care [section 475(5)(H)]

Therefore, I do request a delay of the effective date for implementing the above requirements that are checked and do not request a delay of the effective date for implementing the above requirements that are not checked. The delayed effective date for the checked requirements will be January 1, 2010 (*indicate N/A or the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that ends after October 7, 2009*).

11/22/08
(Date)


(Signature of Designated State Agency Official)

Deputy Director
(Title)

(Date)

(Signature, Associate Commissioner, Children's Bureau)

AB 12 Fact Sheet

California Fostering Connections to Success Act Introduced by Assembly Members Beall and Bass

(Co-authors: Assembly Members Ammiano, Chesbro, Coto, Davis, De Leon, Eng, Jones, John A. Pérez, Portantino, Solorio & Swanson)

THE PROBLEM

California assumes the responsibility of a parent for children in foster care who have been removed from their homes because of abuse or neglect. That responsibility continues until foster children exit the system, either to permanency (e.g. by reunification or adoption) or through "emancipation" by reaching an age at which foster care benefits and services are no longer provided.

In 1998, California created a new means of permanency for abused and neglected children by enacting SB 1901 (McPherson). SB 1901 established the Kinship Guardianship Assistance Program (Kin-GAP) to allow foster children to exit the child welfare system to stable and permanent relative guardianships. The Kin-GAP program has been incredibly successful. In 2007-08, there were approximately 14,000 former foster children living with relative guardians and supported by Kin-GAP. Unlike the funding for foster care or adoptions, however, all of the costs of Kin-GAP have been borne by California. The lack of federal support has been especially unfortunate as research shows that children in kinship care have increased stability in their living situations and are less likely to have behavioral problems.

Each year between 4,000 and 5,000 of California's young people "emancipate" from the foster care system and are left to fend for themselves at age 18 or 19, when federal and state funding ceases to be available for their care. By contrast, most other young people receive financial and emotional support from one or both parents well past age 18. As a result of being left on their own at age 18, former foster youth are far more likely than other youth to experience homelessness, unemployment, unplanned pregnancy and involvement with the legal system. Even though research from other states has demonstrated that providing foster care support until age 21 dramatically improves outcomes for

these youth, federal and California foster care assistance have ceased by age 19.

THIS BILL

In October 2008 Congress enacted HR 6893: the Fostering Connections to Success and Increasing Adoptions Act. Consequently, states now have the option to establish relative guardianship programs with federal financial participation in the costs. HR 6893 also allows states to receive federal funds to provide foster care, kinship-guardianship and adoption assistance benefits to support youth until age 21. HR 6893 provides an incredible opportunity for California to access federal funding to better the lives of our most vulnerable youth.

AB 12 would ensure that California opts into both of these essential federal funding opportunities. It would: (1) re-enact our existing Kin-GAP program to align with federal requirements and (2) provide foster care support to youth until age 21. These changes represent fiscally and socially responsible improvements to California's foster care system. As a result, California would use federal funds for costs that are currently borne by the state and counties, and would achieve substantial savings from declines in homelessness, teen pregnancy, unemployment, public assistance, and other expensive outcomes for young adults who would otherwise be forced out of foster care at the age of 18.

Staff Contact: Jennifer Troia (916) 319-2089

**Question and Answers: American Public Human Services Association
(APHSA) All-State Call October 17, 2008
Fostering Connections to Success and Increased Adoption Act of 2008
(H.R. 6893/Public Law 110-351)**

Provision/Program	Effective Date, HHS and State Action, Eligibility Criteria
Title IV-E Kinship Guardianship Assistance (<i>this is at State Option</i>)	October 7, 2008 , once a State plan amendment has been filed with and approved by The Department of Health and Human Services (HHS).
Title IV-E Kinship Guardianship & Adoption Assistance after the Age of 18 (<i>State Option</i>)	October 1, 2010 , once a state plan amendment has been filed with and approved by HHS.
Title IV-E Foster Care after the Age of 18 (<i>State Option</i>)	October 1, 2010 , once a state Title IV-E plan amendment has been filed with and approved by HHS.
Family Connection Grants for Kinship Navigator programs; efforts to find biological relatives; family group decision-making meetings; and residential family treatment programs	October 7, 2008 , <i>However</i> , HHS will need time to develop this competitive grant process before announcing the availability of funds and requesting proposals. The State requested a delay in the effective date for implementing this requirement in order to better prepare. The delayed effective date is the beginning of the first day of the first calendar quarter following the close of the first regular session of the State Legislature that ends after October 7, 2009.
30 Day Notification Requirement for Relatives that a child has entered foster care	October 7, 2008 The State requested a delay in the effective date for implementing this requirement in order to better prepare. The delayed effective date is the beginning of the first day of the first calendar quarter following the close of the first regular session of the State Legislature that ends after October 7, 2009.
Case-by-Case Waiver for Licensing Standards for Relatives in Title IV-E Guardianship Assistance	October 7, 2008 The State requested a delay in the effective date for implementing this requirement in order to better prepare. The delayed effective date is the beginning of the first day of the first calendar quarter following the close of the first regular session of the State Legislature that ends after October 7, 2009.
Health Oversight and Coordination Plan For Children in Foster Care	October 7, 2008 The State requested a delay in the effective date for implementing this requirement in order to better prepare. The delayed effective date is the beginning of the first day of the first calendar quarter following the close of the first regular session of the State Legislature that ends after October 7, 2009.

90 Day Transitional Plan for Youth Aging out of Foster Care	October 7, 2008 The State requested a delay in the effective date for implementing this requirement in order to better prepare. The delayed effective date is the beginning of the first day of the first calendar quarter following the close of the first regular session of the State Legislature that ends after October 7, 2009.
Educational Stability for Title IV-E Foster Children	October 7, 2008 The State requested a delay in the effective date for implementing this requirement in order to better prepare. The delayed effective date is the beginning of the first day of the first calendar quarter following the close of the first regular session of the State Legislature that ends after October 7, 2009.
Reasonable Efforts Provision for Sibling Placement	October 7, 2008 The State requested a delay in the effective date for implementing this requirement in order to better prepare. The delayed effective date is the beginning of the first day of the first calendar quarter following the close of the first regular session of the State Legislature that ends after October 7, 2009.
Short-term training relative guardians, private child welfare agency staff that serve Title IV-E children; child abuse and neglect court personnel; attorneys; GALs, and CASAs.	October 7, 2008 , 55 percent Federal Financial Participation (FFP); October 1, 2009 , 60 percent FFP; October 1, 2010 , 65 percent FFP; October 1, 2010 , 70 percent FFP, October 1, 2011 , 75 percent FFP.
Tribal Title IV-E Foster Care and Title IV-E Adoption Assistance Access	October 7, 2008
Adoption Incentives 2007 baseline	October 7, 2008
Title IV-E Adoption Assistance Delink (i.e. eligibility for Title IV-E adoption assistance no longer tied to eligibility for former Aid to Families with Dependent Children (AFDC) or income requirements of Title XVI (SSI))	October 1, 2010 for all children who have been in care for 60 consecutive months (five years) or who are a member of a sibling group in which one sibling meets the above and below requirements. October 1, 2010 , (for ages 16 to 18); October 1, 2011 , (for ages 14 and up); October 1, 2012 , (for ages 12 and up); October 1, 2013 , (for ages 10 and up); October 1, 2014 , (for ages 8 and up); October 1, 2015 , (for ages 6 and up); October 1, 2016 , (for ages 4 and up), October 1, 2017 , (for ages 2 and up); and October 1, 2018 , (for all children with <i>special needs</i> , as defined by the adoption assistance State).
Adoption Tax Credit	October 7, 2008 The State did request a delay in the effective date for this provision as it is already implemented. The delayed effective date is the beginning of the first day of the first calendar quarter following the close of the first regular session of the state legislature that ends after October 7, 2009.

Deadline Notice: States are required to submit a Certification of Required State Legislation form to HHS. States had until **Monday, November 24, 2008**, to submit the form to delay the effective date for implementing P.L. 110-351 requirements in order to better prepare. The delayed effective date is the beginning of the first day of the first calendar quarter following the close of the first regular session of the State Legislature that ends after October 7, 2009.

1. States are experiencing difficult financial times. Will this new law have economic impact on state budgets?

States will not see an immediate increase in federal funding resources. Although most of the law's provisions are effective on October 7, 2008, provisions with federal funding assistance (FFP) are not effective until October 1, 2010, and their implementation is gradual. Of the provisions that are phased in, the incremental expansion of Title IV-E Adoption Assistance eligibility will have the most immediate financial impact because this provision will provide FFP for special needs adoptions that were not previously Title IV-E eligible during the child's placement in foster care. States that operate a State-funded adoption assistance program for Title IV-E eligible children, the expansion of Title IV-E adoption assistance eligibility will, over time, represent a partial cost avoidance for the State-funded adoption assistance program, and an improvement in the federal rate of reimbursement for administrative and training costs associated with adoption programs. Likewise, States that are already operating State-funded subsidized guardianship programs that are substantially similar to the program detailed in P.L. 110-351 will now have an opportunity to receive FFP for guardianship subsidies that involve IV-E eligible children. To the extent that such a subsidy would have been previously financed with State monies, the new guardianship subsidy program will represent a partial cost avoidance opportunity for some States with savings possibly starting to accrue as early as March 2010. Other program options provided by P.L. 110-351 should be thoughtfully and thoroughly discussed by States before moving forward because they may have both financial and practice implications.

2. How does a State exercise the IV-E Kinship Guardianship Assistance option?

Once a State has determined that it wants to exercise the option under P.L. 110-351, they must first amend their State plan. At this juncture, there is no guidance for States in the law or from HHS on how to frame a plan amendment. Those States that want to quickly exercise the option to cover pre-existing guardianship programs that are substantially similar to that detailed in P.L. 110-351 so that they can preserve FFP for eligible guardianships executed under the provisions of the new law should consider filing a "free-form" plan amendment with HHS to serve as a placeholder until formal guidance is published. Such an amendment would give notice to HHS that the State intends to operate a Title IV-E guardianship program, describe the operation of the program, detail the benefit level for the subsidy, denote any plan assurances that are necessary, provide supporting exhibits, and state an effective date. It is important to note, that State plan amendments are most often effective the first day of the quarter in which they were filed, unless a State has specified otherwise. States will be unable to claim Title IV-E reimbursement until after their amendment has been approved and

then for only new cases coming into the system. Additionally, HHS rarely allows retroactivity in a State plan unless there are special circumstances that a State can demonstrate.

3. *If a State already operates a State only Kinship Guardianship Assistance program, how does the State convert to the IV-E option?*

See some of the discussion in question 2, above, for guidance. States considering this approach should carefully examine the program requirements of their existing programs and make sure they are at least equal or substantially similar to the requirements in P.L. 110-351 with particular attention being paid to the child's consecutive six month placement and Title IV-E FCM eligibility requirement. Even if a State can successfully and quickly convert a pre-existing program, this requirement effectively means that FFP will only be available to new entrants after at least a month interval in foster care.

4. *If a State currently operates a IV-E waiver that includes subsidized guardianship, how does P.L. 110-351 effect moving forward with the waiver.*

All subsidized guardianships under a Title IV-E waiver as of September 30, 2008, would be eligible to convert to a Title IV-E guardianship if the demonstration project is terminated or completed and the State has taken the Title IV-E kinship guardianship program. This includes non-relative guardians within the waiver as of September 30, 2008. States with guardianship demonstrations may also want to consider amending their demonstration's terms and conditions to allow for the automatic conversion of the remaining demonstration's subsidized guardianships that came into the program on or after October 7, 2008, and are otherwise Title IV-E eligible.

5. *What are the kinship guardianship requirements under P.L. 110-351?*

States must have an approved plan amendment in order to claim reimbursement for a kinship guardianship arrangement. After the State's plan has been approved by HHS, children can be eligible for Title IV-E guardianship as they come into foster care. The child must live with a licensed relative for no less than six months and be Title IV-E eligible for a one month period within that timeframe. The State must determine and document that neither reunification nor adoption are appropriate permanency options. The child and relative care provider need to demonstrate a strong commitment to each other. Additionally, a young person who is 14 years or older must be consulted before being placed in the kinship guardianship arrangement.

6. *How much can the kinship guardianship assistance payment be?*

The amount of the guardianship assistance payment must not be greater than the amount of the foster care maintenance payment would have been had the child remained in the care of the State and placed in a family foster home. This is similar to adoption assistance. Children in Title IV-E guardianships are also categorically eligible

for Medicaid. Additionally, P.L. 110-351 requires States to enter into a negotiated agreement with the relative again, similar to adoption assistance.

7. Does P.L. 110-351 provide funds for kinship programs other than the Kinship Navigator?

There are funds within the Family Connections Grants that promote healthy families. These include programs that create or implement efforts to find biological families and re-establish relationships, family group decision making, and residential family treatment programs, all of which can help children stay safely with families or find permanency with relatives. Like the navigator program, these are based on a competitive matching grant process. The law directs HHS to award no more than 30 grants each year and appropriates \$15 million, \$5 million of which is available for the navigator program, through 2013. States, Tribes, and local agencies, as well as private nonprofit organizations that have experience in working with children in kinship arrangements, may apply.

8. Please explain how the new law views licensed and unlicensed relative caregivers?

P.L. 110-351 goes a long way in recognizing the important role relative care givers play in the lives of young people in foster care. The law emphasizes that a child must be placed in a licensed relative home in order to receive federal reimbursement. However, the law allows States to waive non-safety licensing standards on a case-by-case basis. States will have to document reasons why the waiver was utilized. It is anticipated that HHS will provide further guidance regarding specific circumstances in which waivers can be used; and, HHS is required to report to Congress on the frequency in which States grant these waivers.

9. How does the Aid to Families with Dependent Children (AFDC) eligibility effect the new guardianship option?

P.L. 110-351 gradually eliminates the AFDC requirement for Adoption Assistance only. The birth parents of a child placed with relatives that provide guardianship still must meet this standard when a state exercises their Guardianship Assistance option.

10. Does a young person need to be in State or court custody in order to be eligible to receive IV-E after the age of 18?

First, like the guardianship option, States must first submit a plan amendment to HHS that they wish to exercise their option of supporting youth past the age of 18. Once HHS has approved the plan amendment, then States can start claiming Title IV-E reimbursement for this target population. With regard to the issue of "State or court custody", P.L. 100-351 does not specifically use those words. Instead P.L. 100-351 defines a "child" to include, among other things, someone "...who is in foster care under the responsibility of the State...." At State option, this can also include someone

“...who is in foster care under the responsibility of the State...” and “...who has not attained 19, 20, or 21 years of age...” and who meets one or more of the additional qualifying events denoted in the law. Additional provisions of the law further act to expand the concept of “foster care”, as a setting, to include supervised independent living settings. State’s contemplating the aged-based extension of Title IV-E benefits option provided in P.L. 100-351 will need to examine the issue of “custody” in the context of State law and practice. States may find that action by the State Legislature will prove necessary to bring clarity to the State’s relationship with such persons.

11. *What is meant by supervised setting regarding supporting youth after the age of 18 in P.L. 100-351?*

P.L. 110-351 does not provide a definition for such settings. Instead, it requires HHS to establish regulations concerning this matter.

12. *In P.L. 110-351 what costs are associated with the Federal Medicaid Assistance Percentage (FMAP) rate for Guardianship Assistance?*

The cost of the guardianship subsidy payment is reimbursable at FMAP.

13. *Are all short-term training clients subject to the reduction and subsequent percentage increase?*

No. Short term training that involves employees of “...State-licensed or State-approved child welfare agencies...”, “...staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children...”, and “...relative guardians...” is subject to the initially reduced FFP rates. Allowable and allocated training costs associated with traditionally allowable trainees retain their 75 percent FFP rate. States should exercise care to properly allocate training costs between both trainee populations when conducting “mixed audience” training activities. Further, States should continue to claim allowable and allocated costs for pre-service training associated with foster parent licensing for relative guardians at the normal 75 percent FFP rate.

14. *Where would States get the most recent updated information on the Adoption Tax Credit that can be provided to prospective adoptive parents?*

P.L. 110-351 requires states to include in their TitleIV-E plan how they will provide information to individuals who are adopting from foster care of their potential eligibility for the adoption tax credit. Up to date information on the adoption tax credit can be found at <http://www.nacac.org/postadopt/taxcredit.html>.

16. *Will a State be able to claim Title IV-E administrative FFP for costs in association with developing and administering the Health Oversight and Coordination provision?*

P.L. 110-351 requires States, in coordination with State Medicaid agencies, to develop a plan for ongoing oversight and coordination of health care services for foster children. Since the Health Oversight and Coordination provision is part of the Title IV-B plan, States will not be able to claim Title IV-E dollars when creating this plan. HHS will most likely issue additional guidance in this area. On October 23, 2008, Administration for Children and Families (ACF) provided program instructions that asked States to certify whether or not State legislation was needed to implement this. States had until November 24, 2008, to delay the effective date for implementing this requirement in order to better prepare.

17. *Why did P.L. 110-351 gradually eliminate the Aid to Family with Dependent Children eligibility requirement as opposed to doing it all at once?*

This particular provision was very costly and due to budget constraints, the Congressional drafts gradually added it in. The neediest population is eligible first, the older youth and those that have been in care the longest (60 consecutive months), as well as sibling groups. Not only is the AFDC requirement eliminated, but also the account assets and deprivation of support criteria from the biological families. Children adopted internationally are not eligible.

18. *Will the State's ETV and Chafee allocation be increased due to the increased pool that is eligible for the program?*

P.L. 110-351 now allows youth who are in a guardianship or adoption arrangements at the age of 16 to be eligible for ETVs and Chafee educational resources. Congress did not increase the appropriation of funds when expanding the eligible pool.

19. *What is the role of States now that Tribes have access to Title IV-E?*

We anticipate the HHS will develop additional guidance on the role that states should play. P.L. 110-351 requires HHS to issue interim final regulations no later than October 7, 2009. ACF issued an information memorandum to Tribes on October 24, 2008, regarding the Titles IV-E and IV-B requirements.

**Fostering Connections to Success & Increasing Adoptions Act
H.R. 6893**

**California Department of Social Services
Preliminary Analysis as of November 21, 2008**

BACKGROUND

House of Representatives bill H.R.6893 was signed into law on October 7, 2008. This California Department of Social Services' (CDSS) analysis is based on a preliminary interpretation of the new law. Some portions of the new law are mandatory, while other provisions are optional and provide authority for States to opt in or opt out of their implementation.

The portions of H.R. 6893 that require changes to State statutes must be implemented by January 2010. All other provisions of H.R. 6893 which do not have a specified effective date are now in effect. Many of H.R. 6893's changes could require new resources and information technology changes/updates, including changes to the Child Welfare Services/Case Management System (CWS/CMS) which will likely cause additional workload and CWS/CMS reporting costs (though the extent of this workload and these costs will not be known until federal guidelines are released). Additionally, since foster care eligibility determination is currently a functionality of three of the four Statewide Automated Welfare Systems (SAWS), those systems will have to be modified to the extent changes related to eligibility are required. Provisions of the new law that could impact federal funding to California also are noted below. California statute, regulations, the Title IV-B plan, and the Title IV-E plan could require amendments to conform.

INTRODUCTION

The State and Counties must comply with the mandatory provisions of H.R. 6893. To protect California's child welfare allocation deriving from Parts B and E of Title IV of the federal Social Security Act, there will be a need for substantial state oversight to ensure compliance and mitigate the risk of lost federal funding. California receives approximately \$1.3 billion annually in federal Title IV-B and Title IV-E funding. This federal funding is the fiscal backbone of its Child Welfare System. In addition to oversight to ensure compliance and protect federal funding, there are mandates in H.R. 6893 for coordination among State agencies. An example of this coordination is the health oversight provisions of the new law.

While CDSS has been in contact with the federal Administration for Children and Families (ACF), minimal federal guidance regarding the law has been issued. States are awaiting significant, ongoing federal guidance, which CDSS will analyze as it becomes available. The summary below may change as a result.

MANDATES

Mandates not currently met by California

- **Notification of relatives** – States are required to exercise due diligence to identify and provide notice to all adult relatives within 30 days after the removal of a child from the custody of the parent(s) and the content of the notice is specified.
- ***Impact:** Changes in State statute will be required, since the federal requirement is broader than current statute, which only provides for noticing of parents and siblings. Additionally, the timeframe required by H.R.6893 does not currently exist in statute. There will be additional workload and costs associated with this provision.*
- **Personalized Transition Plan** - A transitional plan must be completed during the 90 day period immediately before a youth exits from foster care. California currently requires a transitional plan; however, the requirements are not exactly the same as the new federal requirements.
- ***Impact:** Changes in State statute may be required, as the specific content and timeframe requirements are different than existing statute. There will be additional workload and costs associated with this provision.*
- **Education stability** - Requires a plan for ensuring the educational stability of children in foster care and mandates assurance of school attendance (either full-time enrollment or documentation of inability to attend school). In addition, educational transportation costs were added to the definition of foster care maintenance payment, for purposes of maintaining foster children in their neighborhood school. California appears to already meet these new federal requirements, except for the transportation provision. California does not currently pay for educational transportation within the foster care maintenance payment.
- ***Impact:** Changes in State statute will be required to meet case plan requirements and to address transportation costs. A vehicle for compliance exists via California's Health/Education Passport, but its use is not currently mandated. There would be costs associated with transportation.*
- **De-linking Title IV-E Adoption Assistance from AFDC income requirements (AFDC look back)** - Gradual, prospective de-link applies to older children and to those children in care for 5 years or longer and their siblings, beginning in federal fiscal year 2010, with the de-link applying to all children by 2018. Allows children who are eligible for Social Supplemental Income (SSI), based solely on the medical and disability requirements, to automatically be considered children with special needs and eligible for adoption assistance without regard to the SSI income requirements. Requires savings resulting from these new Title IV-E

eligibility rules to be invested in services (including post-adoption services) provided under Parts B and E of Title IV.

- ***Impact:** Changes in State statute will be needed. Additional federal funding will be received, and any savings resulting from this change are required to be re-invested in services under Title IV-B and Title IV-E, which could include funding aimed at improved program outcomes.*

Mandates currently addressed in California law

- **Independent Living Services and Education and Training Vouchers**
Eligibility was extended to cover children who were adopted or exited foster care into a relative guardianship program after age 16.
- ***Impact:** None. California already provides eligibility for this population. Services and benefits are provided to the extent funds are available (both State and federal funds are capped).*
- **Health oversight and coordination plan** - Requires a plan for the ongoing oversight and coordination of health care services for foster children, including mental health and dental health. Coordination among state and local agencies is mandated.
- ***Impact:** California substantially meets these requirements, but some changes to State statute will be necessary to align case planning and local coordination requirements. A vehicle for compliance exists via the Health/Education Passport, but its use is not currently mandated.*
- **Sibling placement** - Requires reasonable efforts to place siblings together in foster care, kinship guardianship or adoptive placements. If not placed together, requires reasonable efforts to provide frequent visitation.
- ***Impact:** California already meets these requirements, but may need to clarify definitions in State statute to include "reasonable effort" and possibly other technical changes.*
- **Promoting the Adoption Tax Credit** – Requires States to inform prospective adoptive parents of foster children of potential eligibility for the credit.
- ***Impact:** Current regulations appear to meet this requirement.*

Other Mandates

- **Extending and Improving Adoption Incentives** – Renews the Adoption Incentives Program through 2012 for children adopted out of foster care. Updates the base year to 2007. Doubles the incentive payments for adoptions of children with special needs and older children adoptions. Gives states 24 months to use adoption incentive payments. Provides additional payment if

the State's adoption rate exceeds its highest recorded foster child adoption rate since 2002.

- ***Impact:** California could receive incentive payments.*

OPTIONAL/PERMISSIVE PROVISIONS

- **Kinship guardianship assistance program payments for children** – Provides for FFP in kinship guardianship subsidies under Title IV-E. Requires an AAP type kinship guardianship agreement, and additional documentation in the case file. Also allows for continuation of payment to out-of-state relatives. California will have the option of shortening the time a child must be in placement with a relative before they can receive a payment.

- ***Impact:** Changes in State statute will be needed. Increases FFP. However, this may not translate directly into General Fund savings due to other federal Maintenance of Effort (MOE) requirements.*

- **Extends federal foster care maintenance payments up to the age of 19, 20 or 21, inclusive of supervised independent living settings.** Youth must be involved in educational or work activity, or incapable of doing so due to a medical condition.

- ***Impact:** Changes to State statute would be required. Costs to match available federal funding will depend on the design of the program (for example, whether the age is extended to 19, 20, or 21).*

- **Extends adoption assistance and guardianship payments up to age 19, 20, or 21 (effective October 1, 2010)** – The new benefit will be available only for children adopted or entering guardianship after attaining the age of 16.

- ***Impact:** Changes to State statute would be required. Costs will depend on the design of the program.*

- **Title IV-E short-term training for private child welfare agencies, relative guardians, and court personnel** – Broadens entities eligible for Title IV-E training. Funding will be phased in over a five year period.

- ***Impact:** Changes in State statute would not be required. FFP starts with a 55 percent match in FFY 2009 and gradually increases to 70 percent in FFY 2012, and 75 percent thereafter.*

- **Tribal Access to Foster Care and Adoption Funds** – Allows Indian tribes direct access to Title IV-E funding for foster care and adoption assistance. The role for States is unclear.

***Impact:** Changes to State statute may be required. Fiscal impact is unknown. federal funds will follow the child from the County to the tribe.*

- **Categorical Eligibility for Medicaid** - Currently, California's Kin-GAP children are treated like CalWORKs children for purposes of Medi-Cal eligibility. H.R. 6893 allows children receiving a federal kinship-guardianship subsidy to fall under the same eligibility rules as children in foster care. It would not change their Medi-Cal coverage in California.

- ***Impact:** Changes in State statute may be required. No fiscal impact for the coverage, but may require some changes in Medi-Cal aid codes.*

- **Family connection grants** - For the kinship navigator program, intensive family-finding efforts, family group decision-making meetings, and residential family treatment programs. (\$15 million per year will be available nationwide in FFYs 2009-2013, with no more than 30 grants awarded in any fiscal year. Dollar amount per grant is not specified).

- ***Impact:** Changes in State statute would not likely be required. For this competitively awarded funding, there is a 25 percent match requirement in the first two years and a 50 percent match in the third year.*

- **Allows waiving of non-safety foster care licensure standards for relative foster family homes.** This puts California's current practice into the federal statutes.

- ***Impact:** Changes in State statute would not be required. The issue of safety vs. non-safety standards may need to be re-examined. No fiscal impact.*

- **Federal Parent Locator Service (FPLS) can be accessed for kin connections.** The FPLS, which is an assembly of systems to assist states in locating noncustodial parents and others for the establishment of paternity and child support obligations, would be expanded to allow the child welfare system to access it for its purposes.

- ***Impact:** Changes in State statute could be required. This service would result in new costs, but perhaps could result in more numerous successful placements.*

TAX REVENUE IMPACTS

- **Clarification of Uniform Definition of Child** - Amends the Internal Revenue Code to clarify uniform definition of child. Restricts qualifying child tax benefits.
- **Impact:** *Changes to State statute could be required. May impact California tax revenue if the State provisions are tied to the federal code, which they often are. Any increased State revenue could offset some of the new costs.*

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